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Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: CC Docket No. 94-129

Dear Ms. Salas:

Enclosed for filing please find an original plus nine (9) copies of the Comments of Frontier Corporation in the above-docketed proceeding.

To acknowledge receipt, please affix an appropriate notation to the copy of this letter annexed hereto for that purpose and return same to the undersigned in the enclosed, self-addressed envelope.

Very truly yours,

Michael J. Shortley, III

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of the Subscriber Carrier	)	
Selection Changes Procedures of the	)	
Telecommunications Act of 1996	)	
	)	**CC Docket No. 94-129**
Policies and Rules Concerning	)	
Unauthorized Changes of Consumers'	)	
Long Distance Carriers	)	

COMMENTS OF FRONITER CORPORATION

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March 17, 1999

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Summary

The Commission should act upon the proposals contained in the Further Notice as follows:

1. The Commission should not adopt its proposal to require authorized carriers to collect fines from carriers that commit unauthorized preferred carrier ("PC") changes.

2. The Commission should weigh carefully the costs and benefits of requiring every carrier to utilize its own carrier identification code ("CIC").

3. The Commission should decline to prohibit the use of automated third-party validation systems.

4. The Commission should carefully facilitate the use of the Internet to sign up subscribers.

5. The Commission should not adopt an inflexible definition of the term "subscriber."

6. Frontier has no objection to the Commission's reporting and registration proposals.

7. The Commission should strongly encourage the industry to develop a process for neutral, third-party administration of the PC change and PC freeze processes.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996	)	
	)	**CC Docket No. 94-129**
Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers	)	

COMMENTS OF FRONTIER CORPORATION

Introduction

Frontier Corporation ("Frontier"), on behalf of its common carrier subsidiaries, submits these comments on the Commission's Further Notice in this proceeding.[1] In the Further Notice, the Commission requests comment on eight proposals to complement the rules that the Commission adopted in the Second Report and Order. The proposals in part build upon an already flawed framework[2] and should be rejected. Several additional proposals, however,

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1 *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996*, CC Dkt. 94-129, Second Report and Order and Further Notice of Proposed Rulemaking, FCC 98-334 (Dec. 23, 1998). The Second Report and Order portion of the document is referred to herein as the "Second Report and Order." The Further Notice portion of the document is referred to herein as the "Further Notice."

2 *See* Frontier's Petition for Reconsideration of the Commission's Second Report and Order filed concurrently herewith.

merit further consideration. Frontier addresses the Commission's proposals *seriatim*.

Argument

I. THE COMMISSION SHOULD DECLINE TO ADOPT ITS PROPOSAL TO REQUIRE AUTHORIZED CARRIERS TO COLLECT ADDITIONAL AMOUNTS FROM UNAUTHORIZED CARRIERS.

This proposal -- which apparently would require authorized carriers to collect double the amount of the charges imposed by unauthorized carriers on subscribers[3] -- should not be adopted. This proposal merely builds upon the framework of the Commission's absolution remedy. As Frontier explains at length in its petition for reconsideration, the Commission's absolution remedy exceeds the Commission's authority under section 258, is otherwise unworkable and is ultimately inconsistent with the Commission's pro-consumer goals. In summary, the absolution remedy is flawed because:

-- it conflicts with the express statutory remedy set forth in section 258;[4]

-- it provides absolutely no incentive for authorized carriers to pursue their remedies because the costs of doing so would exceed any benefits that authorized carriers may anticipate;[5] and

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3 Further Notice, ¶¶ 140-44.

4 *Id.* at 3-8.

The Commission's double penalty proposal does not cure this ill, as section 258 does not provide for a punitive remedy. *Cf.*, Further Notice, at ¶ 143 ("These proposals would appropriately impose additional penalties on slamming carriers.").

5 *Id.* at 8-9.

Doubling the amount recoverable from the authorized carrier will not cure this deficiency. The amounts involved in a typical residential slam are trivial

-- particularly coupled with the Commission's no-fault slamming standard, it would encourage widespread fraud by consumers.[6]

In addition, the "double-or-nothing" proposal places authorized carriers in the untenable role of being the Commission's enforcement arm. To the extent that carriers are authorized -- or, likely, required -- to collect what amounts to "fines" in order to provide restitution to consumers, they would be acting as enforcement agencies, a role that is completely foreign to the concept of common carriage.

Thus, rather than build upon its absolution remedy, the Commission should not adopt the concept. As Frontier explains in its petition for reconsideration, the real cure for slamming is targeted, aggressive and timely enforcement action, based upon *facts* and findings of fault, not unsubstantiated allegations, innuendo, rumor or misunderstanding.[7]

II. THE COMMISSION SHOULD PROCEED WITH CARE IN CONSIDERING WHETHER TO REQUIRE EVERY TELECOMMUNICATIONS CARRIER TO HAVE ITS OWN CARRIER IDENTIFICATION CODE.

The Commission proposes three possible alternatives to address the situation where a reseller is riding the carrier identification code ("CIC") of an underlying facilities-based carrier.[8] Of the three, the third alternative -- requiring

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compared to the expenses that the authorized carrier must incur in attempting to collect funds from the unauthorized carrier.

6 *Id.* at 16.

7 *Id.* at 13.

8 Further Notice, ¶¶ 145-64.

facilities-based carriers to modify their billing systems to allow identification of resellers[9] -- already exists and has apparently not been of much help. The second option -- the use of pseudo-CICs, at least as the Commission envisions them[10] -- appears to be impractical. Option one -- requiring every carrier to have its own CIC[11] -- has the most promise, but is also fraught with danger.

The Commission's third option is not an option, because it already exists. Frontier, for example, is able to distinguish its own resellers based upon the ANI of the customer. The reseller -- not Frontier -- is responsible for billing the end-user customer, whether through the local exchange carrier, a billing agent or itself. Frontier does not bill its resellers' end users in Frontier's name.

This, however, is not the problem. When Frontier transmits PC change orders on behalf of its reseller customers that ride its CIC to the local telephone companies, the orders are to presubscribe the line to a specific Frontier CIC -- *e.g.*, 444. The local exchange carrier reads that as a Frontier CIC. Thus, if a customer calls the local exchange carrier to complain of an unauthorized PC change, the local exchange carrier will see that as a PC change requested by Frontier and will so inform the customer.[12] Thus, it is not the bill that is the critical point. Rather, it appears to be the first notification from the local exchange carrier that a PC change has occurred. Thus, the Commission's third

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9 *Id.*, ¶¶ 160-63.

10 *Id.*, ¶¶ 157-59.

11 *Id.*, ¶¶ 154-56.

12 This does not appear to be universally true as Southwestern Bell, for example, is able to distinguish Frontier's own end-user customers from its resellers' customer.

option appears to be a non-starter, because it simply does not address, much less resolve, the problem.

The Commission's Option 2 -- as Frontier understands it -- is impractical. By definition, pseudo-CICs (or sub-CICs) are dependent upon the initial CIC. Thus, a Frontier reseller may possibly be identified as a distinct entity riding a Frontier CIC. The Commission, however, envisions that a pseudo-CIC be transparent to the underlying carrier.[13] Frontier is not aware of any way to make this system technically work.[14]

The Commission's Option 1 has the best chance for deterring slamming, but also comes with its own drawbacks. As discussed above, identification of the reseller on the consumer's bill is not the issue. The issue is which carrier can be identified in the first instance -- typically, by the local exchange carrier -- as the unauthorized carrier. Requiring every carrier to utilize its own CIC will prevent unscrupulous carriers from temporarily hiding behind their underlying, facilities-based carriers. This itself may well have some deterrent effect on slamming.

However, the cost of this approach is high. It costs several hundred thousands of dollars to open a CIC nationwide. This cost itself may be a prohibitive entry barrier -- and swift exit ramp -- for numerous smaller resellers. If the Commission should decide to travel this path, it should proceed with care.

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13 Further Notice, ¶ 158.

14 The pseudo-CIC concept may also have the same problems identified below with respect to real CICs.

III. THE COMMISSION SHOULD NOT CONSTRAIN TECHNOLOGY USED FOR THIRD-PARTY VERIFICATION.

The Commission requests comment on whether it should modify its third-party verification rules.[15] In particular, the Commission seeks comment on the use of automated third-party verification systems and how to implement their use. In the first instance, the Commission should strictly adhere to its independence requirement for third-party verification. That is, the independent verifier should both be completely independent of the carrier and should not be compensated in any way based upon completed transactions. The Commission's rules currently so provide and they are essential to preserve the integrity of the third-party verification process.

The Commission, however, should not take the next step and prohibit a hot transfer from the salesperson to the verifier. So long as the salesperson is not participating during the verification transaction, the integrity of the process is not compromised.

With the above constraint in mind, the Commission should not prohibit the use of automated verification systems. "Live" third-party verification is a decidedly useful -- but relatively expensive -- procedure. Automated verification promises substantially to reduce these costs, which will benefit consumers and carriers alike. Any automated verification system should elicit the information that the Commission's rules currently require. Beyond that, there is no reason

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15 Further Notice, ¶¶ 165-68.

for the Commission to prescribe the content and format of the third-party verification script.[16]

Finally, the verification process should be strictly limited to the role of verifying PC changes. Placing third-party verifiers in the role of dispensing carrier-provided information would compromise that role. If the customer wants additional information, the verifier should refer the customer back to the carrier.

IV. THE COMMISSION SHOULD CLARIFY ITS RULES TO MAKE CLEAR THE VERIFICATION REQUIREMENTS THAT ARE APPLICABLE TO INTERNET SUBSCRIPTIONS.

As the Commission correctly notes,[17] the Internet is becoming a popular vehicle through which customers may select a preferred carrier. However, under the Commission's current rules, an electronic signature does not appear to satisfy the requirements for a signed letter of authorization,[18] thus necessitating that an Internet subscription be verified in some other manner. The Commission's analysis thus far appears to be correct. However, the current rules would appear to constrain the use of the Internet to sign-up customers. Thus, the Commission should seek to strike a reasonable balance between deterring slamming and facilitating carrier changes over the Internet.

To accomplish this balance, Frontier suggests that the Commission permit Internet subscriptions when coupled with the customer's provision of a credit

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16 *See id.*, ¶ 168.

17 *Id.*, ¶ 169.

18 *Id.*, ¶ 121.

card that is validated at the time of sale and used for billing the subscriber. The use of a validated credit card serves to reinforce and validate an electronic signature. Moreover, it is extremely unlikely that someone would misappropriate a credit card -- knowing that it will be checked at the point of sale -- merely fraudulently to slam someone else.[19]

V. THE TERM "SUBSCRIBER" SHOULD MEAN ANYONE IDENTIFYING HIMSELF OR HERSELF AS AUTHORIZED TO ORDER SERVICES.

The Commission suggests that it may want to define precisely the term "subscriber" as that term is used in section 258.[20] The Commission should decline to do so. At bottom, it is the customer's responsibility to determine who in a business or household is authorized to order telecommunications services, not the Commission's and not the carriers'. Thus, carriers should be able to rely upon an individual's representation that the individual is authorized to change carriers.

The Commission should not shift to carriers the burden of determining whether the person is actually authorized to change carriers, particularly when the consequences of an innocent mistake are rather severe.[21] As the Commission correctly notes, such a role would place undue administrative

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19 The use of validated credit card should, obviously, be permitted in addition to the Commission's other permitted validation methods.

20 Further Notice, ¶ 176-78.

21 The logic of the Commission's proposal strongly suggests that if the carrier makes a mistake in identifying the "subscriber," the Commission's remedial scheme is initiated. This result would have several unfortunate consequences. A carrier would be branded as a slammer for relying entirely in good faith on the word of the individual that he or she was authorized to make the change *and* bear the costs and inconvenience associated with the Commission's remedies.

burdens -- in addition to those already imposed by the Commission's new rules -- on both submitting and executing carriers.[22] There is no reason for the Commission to impose these burdens or place carriers in the position of having to police relationships among families or among employees in a business.[23]

VI. FRONTIER HAD NO OBJECTION TO THE COMMISSION'S REPORTING AND REGISTRATION PROPOSALS.

The Commission proposes to require carriers to submit reports on the number of complaints they receive[24] and to register with the Commission before providing service.[25] Frontier does not oppose either proposal, but believes that the Commission should adjust them slightly to make them more useful.

Should the Commission require the filing of reports, it should permit carriers to provide information in addition merely to reporting the number of slamming complaints that they receive. Such reports should include type of complaint, entity against whom the complaint is truly directed (*e.g.*, resellers) and result of any investigation. This is the type of information that the Commission needs in order to make informed policy decisions. Data that merely tabulates the number of complaints received is not particularly useful. In

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22 *Id.*, ¶ 177.

23 As is fairly evident, this proposal also implicates serious privacy concerns.

24 Further Notice, ¶ 179.

25 *Id.*, ¶¶ 180-82.

addition, the Commission should be prepared to act on the information that it receives.[26] Compiling statistics for its own sake is of questionable utility.

In addition, if the Commission decides to require carrier registration, it should sharpen the proposal in two respects. *First*, the Commission should require that any registration be submitted under oath upon penalty of perjury. If the Commission wishes to make it difficult for "entities with a history of fraud"[27] to enter the telecommunications business, it should add teeth to the program by requiring the registration to be under oath. In this way, carriers would be subject to criminal sanctions for perjury, as well as to the Commission's own enforcement powers.

Second, should the Commission adopt a registration program, Frontier agrees that an underlying carrier should confirm that another carrier is registered with the Commission before providing service to that carrier.[28] However, the Commission should impose no additional requirements upon an underlying carrier. In particular, the Commission should not impose any duty upon the underlying carrier to investigate further the *bona fides* of a potential carrier customer. Such a role would be fraught with competitive concerns, as the Commission recognized in an analogous situation. In submitting PC change orders on behalf of a reseller, the Commission prohibited the underlying carrier

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26 For example, such reports may point to the need for enforcement action against carriers that might otherwise escape the Commission's notice.

27 Further Notice, ¶ 180.

28 *Id.*, ¶ 182.

from attempting independently to confirm the validity of any such order.[29] *A fortiori*, if one carrier may not examine the validity of another carrier's customer, it should not be placed in the position of verifying the qualifications of another carrier.

VII. THE COMMISSION SHOULD ENCOURAGE THE INDUSTRY TO IMPLEMENT A SYSTEM OF NEUTRAL THIRD-PARTY ADMINISTRATION OF PREFERRED CARRIER CHANGES AND FREEZES.

The Commission has already recognized the benefits of having a neutral third-party administer a dispute resolution process.[30] The concept of a neutral third-party administration makes sense. The Commission should expand this role, because the existence of a neutral administrator will be beneficial with respect to PC changes and freezes. Particularly if the Bell companies obtain 271/272 authority to enter the interexchange business, they will be ill-suited to administer the carrier change process. They would not be neutral third parties, but would be parties with vested interests in the outcome of the process. This is true, even today, as most states are now open to both local and intraLATA toll competition. The carrier change process is vital to telecommunications competition, It is, therefore, imperative that the process be administered by a neutral third party with no competitive stake in the outcome.

The Commission requests comment on the specifics of such a concept and how the neutral third party would be funded.[31] Rather than attempt to amass

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29 Second Report and Order, App. A, § 64.1100(a)(2).

30 *Id.*, ¶¶ 55-58.

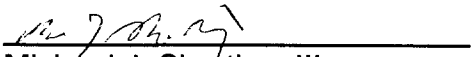
31 Further Notice, ¶ 184.

this detail now, the Commission should invite the industry to present it with a proposed solution, as it did with respect to third-party administration of the dispute resolution process.[32]

Conclusion

For the foregoing reasons, the Commission should act upon the proposals contained in the Further Notice in the manner suggested herein.

Respectfully submitted,



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[32] Second Report and Order, ¶ 57.